

**THE HON'BLE MR JUSTICE V.V.S.RAO**

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WRIT PETITION No.14315 of 2006**

**-  
13.06.2006**

Between

Munagala Krishna Murthy, S/o.Veerabhadraiah

... Petitioner

AND

The Secretary, Government of Andhra Pradesh,  
Endowments Department, Secretariat, Hyderabad  
And others

... Respondents

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ORDER:

The petitioner is a founder trustee of Sri Munagalavari Dharma Cheruvu situated in Kollipara Village and Mandal in Guntur District. The petitioner alleges that the said tank was dug by his ancestors about two centuries ago and the petitioner's family is managing the same by leasing out the fishing rights by public auction. It is also alleged that the income derived from the lease is being used for the tank endowment. After abolition of the hereditary trusteeship, the petitioner's father was allegedly recognized as member of the founder's family by proceedings dated 28.5.1997 of the third respondent. On a request made by petitioner's father, petitioner was recognized as a member of the founder's family. The petitioner alleges that though his father was suffered illness, subsequently he himself is managing the affairs of the trust and it is only by proceedings dated 30.3.2005, the Assistant Commissioner confirmed the petitioner as a member of the founder's family.

The third respondent issued proceedings dated 30.6.2006 in purported exercise of power under Section 28(1) of A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (the Act, for brevity) placing the petitioner under suspension. By the impugned order as many as eleven charges are framed and while calling upon the petitioner to submit explanation to the above charges within fifteen (15) days from the date of the proceedings, the petitioner was suspended and was directed to handover the complete charge to the Manager of Kollipara group of temples. Aggrieved by the same, the present writ petition is filed.

In the impugned order, the following charges are framed against the petitioner.

1. that he failed to produce accounts and records etc., relating to the subject tank before the undersigned in spite of notices issued to him;
2. that his father Sri M.Bhadraiah, had illegally sold away an extent of Acs.0.30 cts., of land covered by D.No.492 under Document No.162/02, to one Sri Bhimavarapu

Butchamma, W/o.Sambi Reddy of Kollipara Village unauthorisedly. Thus he failed to protect the property of the institution as a man of ordinary prudence.

3. that though the fishery lease was approved at the rate of Rs.1,70,000/- per annum by the Commissioner, Endowments Department, Hyderabad vide D.Dis.No.M1/49359/2004, dated 26.11.2004 for the period from 01.8.2004 and 30.6.2006 he executed written agreement to Sri Bonthu Subba Reddy duly fixing the lease amount for Rs.80,500/- per the year 2005-2006 thus he independently acted without seeking any orders from the competent authority by keeping the department in darkness and cause financial loss to the institution and their misleded the department authorities.
4. that he failed to report whether he filed counter affidavit in W.P.No.2677/2006 filed by B.Subba Reddy, before the Hon'ble High Court, Hyderabad on behalf of the Respondent Nos.4&5 as called for in this office Rc.No.A2/2038/2006, dated 22.3.2006 so far.
5. that he failed to protect the property of Ac.11.76 cts., of Dry lands in D.No.394 and 492 worth of Rs.50 lakhs approximately.
6. that he allowed the encroachments around the Tank intentionally and failed to take any steps for removal of encroachments.
7. that he failed to bring the facts for the knowledge of the department and hiders the facts and thus he misleded the department from all these days.
8. that he failed to collect makthas for 2005-2006 from the lessee Rs.1,70,000/- as per auction conditions before entering as per lease conditions.
9. that he failed to lease out the tank in public auction as the lease was cancelled by the Commissioner, Endowments Department, Hyderabad in Rc.No.L3/49359/2004, dt.25.1.2006 and thus he violated orders of the higher authorities.
10. that he failed to take steps for the protection of the Tank, as the Panchayat of Kollipara is leaving the Garbayes into the Tank. Thus causing for casting of bad smell in the village, and also caused loss to the Tank without any sanitation.
11. He failed to follow the directions of the departmental higher officers, and acting as his whims and fancies.

Learned Counsel for the petitioner vehemently contends that the petitioner has already submitted accounts for 2004-2005, which have been audited, and therefore, the first charge is unsustainable. Secondly, he would urge that the property in survey No.492 does not

form part of the trust property and, therefore, second charge is framed by the third respondent without application of mind. Regarding the charges 3 to 5, learned Counsel would submit that after conducting auction of the fishing rights when the same was not confirmed, the highest bidder B.Subba Reddy filed a writ petition being W.P.No.2677 of 2006 before this Court and when the case is pending, it was improper for the third respondent to indict the petitioner for lapses, if any. Regarding the charge of not taking proper care of the tank, into which garbage is being thrown, by the Gram Panchayat, learned Counsel contends that the petitioner has already returned the tank to the Gram Panchayat and, therefore, the impugned order is unsustainable. **Per contra**, learned Assistant Government Pleader for Endowments opposed the writ petition. He would urge that pending enquiry, the petitioner has been placed under suspension and, therefore, no interference is called for especially when the power of the third respondent is not denied.

Section 28(1) of the Act deals with disciplinary action against a trustee and enables the authority competent to appoint a trustee, to suspend, remove or dismiss a trustee for any of the reasons enumerated in subsection (1) of Section 28 of the Act, which reads as under.

**28. Suspension, removal or dismissal of trustee:--**

- (1) The authority competent to appoint a trustee may suspend,  
remove or dismiss a trustee if he –
- (a) failed to discharge the duties and perform the functions of  
a  
trustee in accordance with the provisions of this Act or the  
rules made thereunder;
- (b) disobeys any lawful order issued under the provisions of  
this  
Act or the rules made thereunder, by the Government or  
the  
Commissioner or the Deputy Commissioner or the  
Assistant  
Commissioner;
- (c) refuses, fails or delays to handover the property and  
records in  
his possession relating to the institution or endowment to  
his  
successor or any other person authorized in this behalf;
- (d) commits any malfeasance or misfeasance or is guilty of  
breach  
of trust or misappropriation in respect of the properties of  
the

- institution or endowment;  
(e) becomes subject to any of the disqualifications specified in Section 19; or  
(f) in the case of a religious institution or endowment, ceases to  
profess Hindu religion.

Reading the charges as noticed hereinabove in juxtaposition with the conditionalities under Section 28 of the Act, it becomes clear that the third respondent has properly appreciated the material before him before placing the petitioner under suspension pending enquiry. It is no doubt true that under subsection (2) of Section 28 of the Act, an enquiry has to be conducted by the competent authority taking into consideration the evidence adduced against the trustee or evidence adduced in his favour. This stage is not reached. Further, though strenuous submissions are made to attack various charges, there is no denial by the learned Counsel for the petitioner that the explanation has not been submitted before the third respondent. Nothing prevents the petitioner even now in approaching the third respondent, place all the material before him and seek revocation of the suspension order. Such liberty is given to the petitioner.

The writ petition is misconceived and is, accordingly, dismissed.

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(V.V.S.RAO, J)

July 13, 2006.

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